



Legislative Audit Division

Performance Audit Summary

Tax Dispute Resolution Process for Corporate License and Natural Resource Taxes

August 2003

Introduction

The Department of Revenue administers Montana's tax laws and serves as the general tax collection agency. Revenue collection responsibilities include appraising values of taxable property, assessing tax liability, and auditing for taxpayer compliance. Each of these department functions can generate taxpayer disagreement. Thus, there must be a process to allow taxpayers to receive full explanation of assessments, bring forth concerns, present additional facts for consideration, and resolve disputes between taxpayers and the department. The Legislature provided a process to protect taxpayers by enacting the Taxpayer Bill of Rights and requiring the Department of Revenue to provide for a uniform dispute resolution procedure.

The Legislative Audit Committee requested a performance audit of the tax dispute resolution process followed by the Department of Revenue. The Committee expressed interest in the process as it pertains to Corporate License and Natural Resource taxes.

State Share of Corporate and Natural Resource Taxes Fiscal Years 1996 - 2002

Fiscal Year	Corporate	Natural Resource
1996	\$ 75,761,891	\$ 60,208,207
1997	\$ 81,999,138	\$ 59,738,719
1998	\$ 77,928,498	\$ 51,587,343
1999	\$ 89,624,559	\$ 52,962,852
2000	\$ 99,088,870	\$ 67,180,552
2001	\$103,670,487	\$ 70,730,347
2002	\$ 68,173,254	\$ 54,416,565

Background

Assessments from compliance audits of businesses liable for corporate license or natural resource taxes are typically the "trigger point" for taxpayer disputes. Taxpayers can appeal department tax assessment decisions. The appeal process starts as an informal appeal directly to audit staff and management. If the dispute cannot be resolved, either the taxpayer or department may refer the dispute to the department's Office of Dispute Resolution, which offers mediation of tax issues. If

parties to the tax dispute cannot resolve issues via administrative remedies, disputes progress to a more formal course of appeal. Appeals can be brought before the State Tax Appeal Board and finally the judicial system. Resolution may occur at any level of the process. The department emphasizes resolving tax disputes as early as possible through the department's informal administrative review process.

Department Compliance Audit Collections Corporate and Natural Resource Taxes Fiscal Years 1996 - 2002

Fiscal Year	Corporate	Natural Resource
1996	\$ 5,960,037	\$ 4,400,653
1997	\$ 8,805,617	\$ 2,010,675
1998	\$ 6,206,619	\$ 5,947,309
1999	\$ 6,254,454	\$ 6,457,801
2000	\$ 3,892,839	\$ 643,016
2001	\$ 9,677,154	\$ 38,855,819
2002	\$ 5,172,751	\$ 590,950

Revenue spike in FY 2001 due to resolution of a tax dispute.

Dispute Resolution Process Provides for Uniform and Fair Treatment

Our review and testing shows the dispute resolution process related to corporate license and natural resource tax assessments is designed to provide multiple opportunities for either party to a tax dispute to discuss issues relating to the assessment, bring forth arguments, and resolve disputes.

The process treats both parties to a dispute fairly by providing for independent and objective review of facts and issues and including several levels of appeal.

Availability of the Office of Dispute Resolution, the State Tax Appeal Board, and the court system guarantees independent consideration of issues. ***The dispute resolution process is designed to ensure fair and consistent treatment of all parties as a result of a tax dispute regardless of tax type or other issues.***

The majority of corporate license and natural resource tax appeals are resolved during administrative appeal negotiations with audit staff and management. Far fewer disputes involving corporate license or natural resource taxes are referred on to the Office of Dispute Resolution.

The following table shows cases pending before ODR during December 2002 and June 2003.

<u>Cases Pending Before Office of Dispute Resolution</u> December 2002 and June 2003		
Case Type	December	June
Liquor Licensing	38	56
Individual Income Tax	4	6
Corporate License Tax	1	4
Natural Resource Tax	0	0
Unemployment Insurance	1	2
Accounts Receivable and Collections	1	0
Non-Cash Remunerations to Employees	1	0
Total Cases Pending	46	68

The majority of appeals brought before the State Tax Appeal Board (STAB) relate to property taxes. Few appeals related to corporate license tax or natural resource taxes are filed with STAB. The following table provides a breakdown of appeals pending before the board during November 2002 and May 2003.

<u>Appeals Pending Before The State Tax Appeal Board</u> November 2002 and May 2003		
Case Type	November	May
Property Tax	11	15
Property Tax – Centrally Assessed	5	6
Individual Income Tax	1	3
Metal Mines Tax	1	0
Corporate License Tax	2	2
Total Cases Pending	20	26

Principal Findings

The principal findings and conclusions of this audit are:

- Department of Revenue's corporate license and natural resource tax assessments are generally not reduced during the protest and appeal process. Audit assessments issued by the department are usually upheld.
- The majority of corporate license and natural resource tax disputes are resolved during the administrative review portion of the process and rarely progress on to appeals before the State Tax Appeal Board or the court system.

- Accounting and taxation principles – technical issues as opposed to interpretation of law - are the most common reasons cited during a tax dispute.
- The Department of Revenue established an effective system of controls over the administrative remedy portion of the tax dispute resolution process for corporate license and natural resource taxes.

Our review and testing shows the process provided for in statute to protect taxpayers through the Taxpayer Bill of Rights and requiring the Department of Revenue to provide for a uniform dispute review procedure is in place and functioning as intended. As a result, this audit makes no recommendations for improvement.

For a complete copy of the report (03P-04) or for further information contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at <http://leg.mt.gov/audit>.